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IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1962.

No. 671

MILDRED WAGNER, individually and as administrator of the Estate of MARY LOU WAGNER, deceased,

Petitioners,

vs.

FAWCETT PUBLICATIONS, a Connecticut corporation, and T. D. PUBLISHING COMPANY, a New York corporation,

Respondents.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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THE GUNTHORP-WARREN PRINTING COMPANY, CHICAGO

IN THE

Supreme Court of the United States

OCTOBER TERM, 1962.

No. 671

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MAY IT PLEASE THE COURT:

The Petition for Certiorari states no basis for review by this court.

The first and now withdrawn opinion rendered by the Seventh Circuit clearly violated established constitutional guarantees of free speech and press. *Winters* v. *New York*, 333 U. S. 507; *Joseph Burstyn, Inc.* v. *Wilson*, 343 U. S. 495. The affirmance of the District Court after the rehearing is constitutionally correct and is a result dictated by both the law of Illinois [*Bradley* v. *Coules Magazines, Inc.*, 26 Ill. App. 2d 331, 168 N. E. 2d 64; *Buziński* v. *Do-All Co.*, 31 Ill. App. 2d 191, 175 N. E. 2d 577; *Rozhon* v. *Triangle Productions*, 230 F. 2d 359 (7th Cir.)] and the de-

cided cases generally.[1] The order dismissing this case should thus not be disturbed whether the First Amendment, the Illinois law, or the authorities generally be consulted.

We respectfully request the Petition for Certiorari be denied.

Respectfully submitted.

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January 3, 1963.

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[1] *Sidis* v. *F-R Publishing Co.*, 113 F. 2d 806 (2nd Cir.), *cert. den.* 311 U. S. 711; *Jenkins* v. *Dell Publishing Co.*, 251 F. 2d 447 (3rd Cir.), *cert. den.* 357 U. S. 921; *Estill* v. *Hearst Publishing Co.*, 186 F. 2d 1017 (7th Cir.); *Leverton* v. *Curtis Publishing Co.*, 192 F. 2d 974 (3rd Cir.); *Werner* v. *Hearst Publishing Co.*, 297 F. 2d 145 (9th Cir.); *Elmhurst* v. *Pearson*, 153 F. 2d 467 (D. C. Cir.); *Bernstein* v. *National Broadcasting Co.*, 129 F. Supp. 817 (D. D. C.), *aff'd on trial court's opinion* 232 F. 2d 369 (D. C. Cir.), *cert. den.* 352 U. S. 945; *Hazlitt* v. *Fawcett Publications, Inc.*, 116 F. Supp. 538 (D. Conn.); *Miller* v. *National Broadcasting Co.*, 157 F. Supp. 240 (D. Del.); *Frith* v. *Associated Press*, 176 F. Supp. 671 (D. S. C.); *Berg* v. *Minneapolis Star and Tribune Co.*, 79 F. Supp. 957 (D. Minn.); *Smith* v. *Doss*, 251 Ala. 250, 37 S. 2d 118; *Carlisle* v. *Fawcett Publications, Inc.*, 20 Cal. Rptr. 405; *Smith* v. *National Broadcasting Co., Inc.*, 138 Cal. App. 2d 807, 292 P. 2d 600; *Stryker* v. *Republic Pictures Corporation*, 108 Cal. App. 2d 191, 238 P. 2d 670; *Goelet* v. *Confidential*, 5 App. Div. 2d 226, 171 N. Y. S. 2d 223; *Molony* v. *Boy Comics Publishers, Inc.*, 277 App. Div. 166, 98 N. Y. S. 2d 119.